



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

# California Regional Water Quality Control Board

## Los Angeles Region

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### Los Angeles Regional Water Quality Control Board Minutes of October 2, 2003 Regular Board Meeting held at City of Simi Valley Council Chambers, 2929 Tapo Canyon Road Simi Valley, California

#### INTRODUCTION

The meeting was called to order by Chairperson Cloke at 9:23 am.

#### Board Members Present

Julie Buckner-Levy, Susan Cloke, Francine Diamond, R. Keith McDonald, Brad Mindlin, H. David Nahai, and Tim Shaheen

#### Board Members Absent

Christopher Pak

#### Staff Present

Dennis Dickerson, Deborah Smith, David Bacharowski, Robert Sams, Ronji Harris, Michael Lauffer, Jack Price, Jenny Newman, Laura Gallardo, Jon Bishop, Blythe Ponek-Bacharowski, Paula Rasmussen, Veronica Cuevas-Apulche, Raymond Jay, Renee DeShazo, Wendy Phillips, Don Tsai, Jau Ren Chen, Namiraj Jain

#### Others Present

Jon Benjamin, Precision Specialty Metals  
Tony Gallegos, Precision Specialty Metals  
Marty Adams, LA Department of Water and Power  
Evaristo Barajas, Mayor, City of Fillmore  
Madan Arora, City of Fillmore  
Dave Sovie, Operations Management  
International, Inc.  
Martha Rincon, Los Angeles County Sanitation  
Districts  
Dan Detmer, United Water Conservation District  
Uzi Daniel, West Basin MWD  
LTC John Geunther, Army Corps of Engineers

Ed Brady, Precision Specialty Metals  
Jim Carter, Precision Specialty Metals  
Patti Walker, City of Fillmore  
Bert Rapp, City of Fillmore  
Elaine Malyacher  
Glenn Rowley, Operations Management  
International, Inc.  
Vera Melnyk Vecchio, Department of  
Health Services  
Hoover Ng, Water Replenishment District  
Mary Decker, LA City Attorney's Office  
Rosalind Stewart, representing LA City  
Councilmember Wendy Greuel

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Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Debra Bowmen, Tujunga Watershed Council  
Roger Campbell

Bryan Schweickert, Los Angeles DWP  
Dwight Moore

Pledge of Allegiance

1. Roll Call

2. Order of Agenda.

*The order of the agenda was changed to the following:  
12, 10.1 (removed from consent calendar), 14, 13, 8, 9.*

3. Approval of Minutes for Minutes for September 11, 2003.

*The approval of the minutes was postponed.*

4. Board Member Communications and Ex Parte Disclosure

*Vice Chair Diamond reported that she and Chair Cloke met with Councilmember Bernard Parks.*

*Board Chair Cloke reported that she and Board Member Nahai appeared on Environmental Directions Radio. She also attended the Wetlands Board of Governors meeting in San Diego, met with Commissioner Stein to discuss the sanitary sewer overflow lawsuit, and met with the cities of Thousand Oaks and Santa Paula regarding confidential settlement discussions.*

5. Executive Officer's Report

*The Executive Officer updated the Board on staff award recipients, the upcoming Malibu pathogen TMDL workshop and the workshop for the Boeing Santa Susana Field Lab permit, recent enforcement actions, and stormwater compliance efforts in Sun Valley.*

6. Public Forum

*There were no speakers during public forum.*

7. Uncontested Items

*There were no uncontested items.*

10.1 Harbor Water Recycling Project - Dominguez Gap Barrier Project

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*Blythe Ponek-Bacharowski gave the staff report. She discussed the background of the project, which entailed the injection of wastewater to the groundwater to prevent saltwater intrusion. She stated that the dischargers were the City of Los Angeles Department of Water and Power, City of Los Angeles Department of Public Works, Water Replenishment District of Southern California, and Los Angeles County Department of Public Works. She discussed the design of the project, which requires wastewater to be treated by disinfection and reverse osmosis before injection. She also discussed the location and distribution of the injection wells, influent and effluent limits, interim limits and compliance schedules. She stated that the remaining issues were the inclusion of action levels as permit limits, the removal of effluent limits for TSS and BOD, and the proposed 3-year compliance schedule.*

*Martin Adams, Los Angeles Department of Water and Power, opposed the inclusion of action levels as enforceable permit limits and asked that a decision on the permit be postponed for further discussion.*

*Bryan Schweickert, discussed the importance of recycled water and opposed the inclusion of action levels. He stated that the action levels should not be enforceable, and should instead be used to trigger studies.*

*Uzi Daniel, West basin Municipal Water District, gave conditional support of the permit but opposed the inclusion of action levels. She stated that they discouraged water recycling efforts.*

*Hubert Ng, Water Replenishment District, stood on comments he previously submitted.*

*Martha Rincon, Los Angeles County Sanitation Districts, opposed action levels.*

*Vera Melnyk-Vecchio, Department of Health Services, supported staff's recommendation.*

#### Board Questions

*Board Member Mindlin asked Ms. Daniel why the inclusion of action levels would prevent the achievement of recycling goals.*

*Ms. Daniel replied that water purveyors would be discouraged from conducting water recycling research.*

*Board Member McDonald asked how many action levels existed in the state.*

*Ms. Daniel replied that there were 49 total and 23 recommended by the department of health services.*

*Board Member Nahai asked Ms. Melnyk-Vecchio to respond to comments made about action levels.*

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*Ms. Melnyk-Vecchio replied that she supported the inclusion of action levels in the permit but could also support giving some leeway to the dischargers.*

*Vice Chair Diamond asked if public health would be protected by including action levels in the permit.*

*Ms. Melnyk-Vecchio replied that it would.*

*Vice Chair Diamond asked counsel to respond to comments that action levels would be legally vulnerable.*

*Michael Lauffer, Staff Counsel, replied that the inclusion of action levels was consistent with prior permits. He stated that anytime a constituent is introduced into the groundwater that wasn't previously there (even below action levels), water would be degraded. Therefore, he stated that the inclusion of action levels actually benefits the discharger.*

*Board Member McDonald pointed out the project would fall under the jurisdiction of the Santa Ana Regional Board, who would not require action levels. He asked if the permit included more than the 23 action levels recommended by DHS.*

*Blythe Ponek-Bacharowski replied that there were 48 action levels included in the permit. She doubted that the constituents with action levels would pass through reverse osmosis.*

*Board Member Shaheen asked for the residence time between the injection wells and production wells.*

*Ms. Ponek-Bacharowski replied that the MCLs as well as the ALs applied at the point of injection so that the residence time didn't matter.*

*There was a motion to adopt staff's recommendation. Board Member McDonald stated that he would like to postpone the adoption until staff, the dischargers, and DHS could reach an agreement.*

**MOTION:** By Vice Chair Diamond, seconded by Board Member Nahai, and approved on a voice vote. No votes in opposition.

17. Information Item – Hansen Dam

*Raymond Jay, Chief, Nonpoint Source Unit, gave the staff presentation. He discussed the history of the basin and the lakes below the dam, and the past fill activities by the Army Corps of Engineers in the two lower lakes. He discussed actions taken by staff since first receiving the complaint of the fill activities by residents in 2002, including the issuance of a notice of violation for failure to submit a section 401 certification*

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*application. He discussed staff's approach of requiring a retroactive 401 certification for the fill operations by the Corps and discussed the timeframe for the certification process.*

*Lieutenant Colonel John Gunther, Army Corps of Engineers, gave background on the area and the lower lakes, which he stated, were intended as burrow pits. He stated that the Corps stopped fill activities in 2002 and had no plans to continue.*

*Debra Bowmen, Tujunga Watershed Council and Stakeholders, reviewed the type of material dumped by the Corps, which she claimed included arrundo donax, and reviewed the actions taken by volunteers since the dumping was discovered.*

*Rosalynd Steward, representing Councilmember Grueul, read a letter from Councilmember Grueul asking for the full removal of debris from the lower lakes.*

*Mary Decker, Deputy City Attorney, read a letter from Attorney Delagdillo asking for a complete investigation and asking the Board to undertake necessary enforcement actions to ensure the complete removal of debris from the lower lakes.*

#### Board Questions

*Vice Chair Diamond asked why the Corp was allowed an extension to submit information after the dumping was originally discovered.*

*Dennis Dickerson replied that staff received information that was deemed incomplete. He stated that staff was now working with the Corps to ensure that all application information would be received by October 15.*

*The Board Members stated that this was a serious matter that had not been adequately addressed. They felt the Army Corps had acted irresponsibly and negligently. They added that they were interested in acting to ensure the full removal of debris.*

*While staff conferred, the Board Members and Lieutenant Colonel Gunther discussed steps that needed to be taken.*

*Michael Lauffer stated that the item was noticed as an information item and that no action could be taken, but noted the frustration expressed by the Board. He discussed the problems with dealing with a federal agency and the limited power of 401 authority. He then discussed the Corps' sporadic nature of compliance with State enforcement actions like cleanup and abatement orders.*

*Dennis Dickerson added that staff could issue a retroactive 401 certification with provisions for debris removal within 30 days.*

#### 13. Proposed Policy on Hydromodification of Streams

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*Renee DeShazo, Staff Scientist, Regional Programs Section, gave the background on the proposed policy, including its inclusion in the triennial review. She discussed the types of activities that affect normal stream flow and how hydromodification affects beneficial uses. She stated that the intent of the policy was to support restoration but also to manage the impacts of necessary projects. She discussed the current regulatory framework for addressing hydromodification of streams under sections 404 and 401 of the Clean Water Act and reviewed the elements of the proposed policy, including avoidance, minimization, and compensatory mitigation.*

14. Prospective Purchaser Agreement (PPA) – Precision Specialty Metals

*Art Heath, Chief, Remediation Section, gave the background on the facility and current operations, and reviewed historical operations, ownership, and liability. He stated that the PPA would release the current owners from liability for existing contamination by previous owners, while committing the current owners to contributing \$1 million for cleanup. He then reviewed groundwater contaminants and the cleanup process.*

*Michael Lauffer discussed the legal parameters under which the Board operated with respect to PPAs.*

Board Questions

*Board Member Shaheen asked about the individual entities that owned the property prior to and after the change of ownership.*

*Mr. Lauffer replied that staff did not want to allow the development of a shell corporation to hide liability. He stated that there was a modicum of overlap of ownership in the past and current companies, but that there was not a controlling interest in the new corporation by owners of the previous corporation.*

*Jon Benjamin, Environmental Counsel to New Precision Specialty Metals (New PSM), stated that the PPA was not intended to insulate old property owners, but instead was intended to protect new shareholders.*

*Board Member Mindlin asked several questions of Ed Brady of New PSM, regarding ownership overlap and due diligence issues.*

*Board Member Nahai asked what was meant by the wording in the PPA that said New PSM would “contribute” \$1 million for cleanup. He also asked that of the four common shareholders between old PSM, the interim company of Brady International Corporation, what was the percent ownership in New PSM.*

*Jon Benjamin replied that “contribute,” meant that New PSM would spend up to \$1 million if necessary. He stated that they did not currently have the \$1 million. He stated that the percent ownership in New PSM of the four old shareholders was over 50%.*

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*Vice Chair Diamond asked about the estimated cost of cleanup.*

*Mr. Benjamin replied that cleanup was estimated to cost between \$1/2 and \$2 million. He added that the PPA required an investigation of other PRPs if \$1 million was not sufficient for cleanup.*

*Board Member Nahai expressed concerns about the timeframe of the PPA and the extensions allowed.*

*Board Member Mindlin added that he had concerns with the fact that Brady International had only one asset and the fact that the PPA cut out Brady.*

*Board Member Shaheen stated that the Board didn't appear comfortable with adopting the PPA, even with changes.*

*Chair Cloke appointed a subcommittee of Board Member Nahai and Mindlin to work with staff and New PSM to negotiate a new PPA.*

*There was a motion to approve the subcommittee to negotiate a PPA with staff and New PSM that addressed specific issues framed by the Board members.*

**MOTION:** By Vice Chair Diamond, seconded by Board Member Buckner-Levy, and approved on a voice vote. No votes in opposition.

8. NPDES Permit renewal and issuance of Cease and Desist Order (CDO) for the Santa Paula Water Reclamation Facility

*Mayor John Proctor, City of Santa Paula asked the Board to delay adoption of the proposed permit in light of the recent settlement agreement negotiations for enforcement penalties.*

*There was a motion to defer the item until settlement negotiations were complete.*

**MOTION:** By Chair Cloke, seconded by Board Member Mindlin, and approved on a voice vote. No votes in opposition.

9. NPDES Permit renewal and issuance of Cease and Desist Order (CDO) for the Fillmore Wastewater Treatment Plant

*Blythe Ponek-Bacharowski gave a brief staff presentation and reviewed the changes in the change sheet. The changes included the type and frequency of required turbidity and total residual chlorine samples and the frequency of required BOD, MBAS, and TSS samples. She then reviewed the purpose of the CDO, which prescribed interim limits for BOD, TSS, MBAS, and turbidity in order to allow Fillmore time to comply with these limits. She stated that Fillmore preferred a time schedule order (TSO) to a CDO.*

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*Michael Lauffer discussed the differences between a CDO and TSO and stated that staff did not prefer one more than the other.*

*Mayor Evaristo Barajas, City of Fillmore, stated that he preferred a TSO to a CDO because the City needed an opportunity to build a new combined Santa Paula/Fillmore plant.*

*Councilmember Patti Walker, City of Fillmore, stated that the city was aggressively working to comply with their limits and to pursue a joint plant with the City of Santa Paula.*

*Madan Arora, Director and Senior Project Manager, Parsons, discussed improvements at the existing treatment plant and discussed the proposed joint plant.*

*Burt Rapp, City Engineer, City of Fillmore, discussed the City's history of compliance efforts and asked for a lower MBAS limit.*

*Dwight Moore opposed the new permit because of the delay in compliance and the lenient interim limits in the CDO.*

*Roger Campbell discussed the conditions on approvals for additional housing.*

*There was a motion to adopt the staff recommendation with the changes in the change sheet and as presented orally by staff.*

**MOTION:** By Board Member Buckner-Levy, seconded by Vice Chair Diamond, and approved on a voice vote. No votes in opposition.

#### Adjournment of Current Meeting

The meeting adjourned at 4:40 pm. The next regular meeting is scheduled for November 6, 2003, at the Metropolitan Water District of Southern California, 700 North Alameda Street, Los Angeles, at 9:00 a.m.

Minutes adopted at the \_\_\_\_\_ Regular Board meeting submitted/amended.

Written and submitted by: \_\_\_\_\_.

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